

### REMARKS

Claims 16-42 and 43-48 are pending. Claims 16-42 and 43-48 have been rejected. Claims 1-15 were previously canceled without prejudice. Claim 43 is hereby canceled without prejudice. Claims 22, 32-34, 38, and 45-48 have been amended. No new matter has been added.

### 35 USC § 101 REJECTIONS

Claims 32-48 have been rejected under 35 USC § 101 as being directed to non-statutory subject matter. Claims 32-33 and 45-48 have been amended so as to obviate this rejection. Claims 34 and 38 continue to recite “a physical medium maintaining...” limitations; in these two claims, the claim is not directed towards an embodied software method, as the rejection suggests, but to specific functional elements of an apparatus, as claimed. Applicants respectfully request that these rejections be withdrawn.

### 35 USC § 112 REJECTIONS

Claims 22, 29-31, 38, and 44-47 have been rejected under 35 U.S.C. § 112 ¶2 as being indefinite. These claims have been amended, obviating these rejections. Applicants respectfully request that they be withdrawn.

### 35 USC § 102(e) REJECTIONS

Claims 16-48 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Downs et al., U.S. Patent No. 6,226,618 B1.

With reference to these claims, the Examiner is respectfully directed to independent Claim 16 which recites that an embodiment of the present invention is directed towards:

A method, including steps of

at a first node in a network, distributing digital content to a second node in that network, that digital content representing at least a portion of a media stream, at least a portion of that digital content being encrypted by a first encryption key those steps of distributing to a second node

including steps of

(a) receiving a first decryption key, that first decryption key being encrypted by a second encryption key, that second encryption key being pre-assigned to that first node;

(b) decrypting that first decryption key using a second decryption key associated with that second encryption key, that second decryption key being preassigned to that first node;

(c) decrypting that digital content using that first decryption key;

(d) re-encrypting at least a portion of that digital content using a re-encryption key.

Independent claims 32 and 48 recite similar limitations. Claims 17-31 are dependent upon Claim 16, and recite further features of the claimed embodiments. Claims 33-42 and 44-47 are dependent upon Claim 32, and recite further features of the claimed embodiments.

The rejection suggests that Downs recites every limitation of the claimed embodiment. Applicants respectfully disagree. Further, Applicants assert that the rejection fails to set forth a *prima facie* case under 35 USC § 102(e).

Applicants understand Downs to purport to describe a system for secure distribution of data, involving the use of public/private key pairs (see, e.g., Abstract, Col. 17-19 (Process Flow Description)). While Applicants acknowledge that Downs discusses

encryption keys, digital content, and decryption/encryption of encryption keys, Applicants assert that Downs does not describe (a) receiving a first decryption key, that first decryption key being encrypted by a second encryption key, that second encryption key being pre-assigned to that first node; (b) decrypting that first decryption key using a second decryption key associated with that second encryption key, that second decryption key being preassigned to that first node; (c) decrypting that digital content using that first decryption key; and (d) re-encrypting at least a portion of that digital content using a re-encryption key

As the rejection does not specifically equate elements of Downs with the limitations of the claimed embodiments, Applicants have attempted to identify elements which may appear similar. Applicants believe that the Process Flow description of Figure 1 (see Col. 17-19) is the most relevant portion of Downs. Applicants note the description of steps 144-148, which recites:

144 Once all the checks are complete, the Encrypted symmetric Key is decrypted using the private key of the Clearinghouse(s) 105. The symmetric Key is then encrypted using the public key of the End-User(s). This new Encrypted symmetric Key is then packaged into a License SC by the SC Packer.

145 The License SC is then transmitted to the End-User(s).

146 When the License SC is received at the End-User Device(s) 109 it is stored in memory until the Content SC is downloaded.

147 The End-User Device(s) 109 request form the Content Hosting Facility 111, sending the corresponding License SC for the purchased Content 113.

148 Content 113 is sent to the end-User Device(s) 109. Upon the receipt the Content 113 is de-encrypted by the End-User Device(s) 109 using the Symmetric Key

This description does discuss receiving an encrypted encryption key, and decrypting it using a private key. It also discusses using the encryption key to decrypt content.

However, the decryption of content does not occur at the same node where the encrypted decryption key is decrypted using a decryption key assigned to the node, as recited in the Claims. Further, Downs *does not* recite re-encryption *of the digital content* at that node, as recited in the Claims.

Moreover, the rejection provides the sweeping assertion that Downs “clearly encompasses the claim limitations, as broadly interpreted by the examiner.” While the rejection notes that Downs involves secure electronic distribution of content, encryption keys, and users on a network, the rejection does not offer to equate specific elements of Downs with the limitations recited by the claimed embodiments, nor does the rejection show that the elements of Downs are arranged as required by the claimed embodiments, as is necessary to establish a *prima facie* case for rejection under 35 USC 102(e) (see MPEP § 2131). Applicants respectfully request that the rejection be withdrawn. If the rejection is maintained, Applicants respectfully contend that the rejection must recite the elements in Downs that are deemed to encompass the limitations of the claimed embodiments.

As such, Applicants contend that Downs fails to teach or anticipate the embodiments recited in Claims 16, 32, and 48. Therefore, Applicants respectfully assert that Claims 16, 32, and 48 overcome the grounds for rejection under 35 U.S.C. 102(e), and are in condition for allowance. Accordingly, Claims 17-31, dependent upon Claim 16, and Claims 33-42 and 44-47, dependent upon Claim 32, overcome the basis for rejection under 35 U.S.C. 102(e), as they are dependent on allowable base claims

## CONCLUSION

In light of the above-listed amendments and remarks, Applicants respectfully request allowance of the remaining Claims.

The Examiner is urged to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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